

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company; the City of Mount Olive; :
Staunton Township; and the State of Illinois, Department of :
Transportation. :

Stipulated Agreement regarding improving public safety at the : T03-0041
crossings of the Company's tracks with public highways known :
as Third North Street, Main Street (CH 16), Second South Street, :
Third South Street, Poplar Street, and Eighth South Street, all in :
the City of Mount Olive, and TR 457 in Staunton Township, all :
located in Macoupin County, Illinois, designated as crossings :
AAR/DOT 480 074P, milepost 444.51-WA, AAR/DOT 480 075W, :
milepost 444.74-WA, AAR/DOT 480 076D, milepost 444.85-WA, :
AAR/DOT 480 077K, milepost 444.93-WA, AAR/DOT 480 078S, :
milepost 445.09-WA, AAR/DOT 480 079Y, milepost 445.28-WA, :
and AAR/DOT 480 084V, milepost 447.13-WA, respectively. :

SUPPLEMENTAL ORDER

By the Commission:

On June 4, 2003 the Illinois Commerce Commission entered its original Order in the above captioned matter. The City of Mount Olive ("City") was required and directed to, among other things, improve the highway approach grades to comply with requirements of 92 Illinois Administrative Code, Part 1535.204, *Grade Line of Highway Approaches*, at the Third North Street, Second South Street, Poplar Street, and Eighth South Street highway-rail grade crossing of the Norfolk Southern Railway Company's track located in Mount Olive, Illinois (designated as crossing AAR/DOT 480 074P, milepost 444.51-WA, AAR/DOT 480 076D, milepost 444.85-WA, AAR/DOT 480 078S, milepost 445.09-WA, and AAR/DOT 480 079Y, milepost 445.28-WA, respectively). The original Order contained a division of cost among the parties and all work was to be completed on or before December 4, 2004.

On September 22, 2004, the City filed a Supplemental Petition requesting an extension of time, to and including December 4, 2005, to complete the required work. The City claims that their consulting engineer has been delayed in completing the final design work and the contract plans and specifications for improving grades on the highway approaches at the four crossings listed above. The City needs more time to complete the contract plans, specifications, and proposal (and to obtain design/contract approval from IDOT), and to allow time for the advertising of bids and for the award/execution of the contract, and for the actual construction. The City of Mount Olive states that the railroad

has already installed the automatic flashing light signals and gates at all of the crossings, thus their failure to complete the approach reconstruction has not caused a delay in the railroads safety device installation as required by the original Order. The preparation of pre-final plans, specifications, and estimates is complete and the City expects the final plans, specifications and estimates to be approved by the end of 2004, the construction contract to be awarded around February 2005, with construction occurring in Spring/Summer of 2005. The City is therefore requesting an extension of time, to and including December 4, 2005 in order to complete the project.

The Commission, having given due consideration to the Supplemental Petition, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact, as set forth in the prefatory portion of this Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) The City's request for an extension of time, to and including December 4, 2005, is fair and reasonable and should be granted;
- (4) All other terms and conditions of the original Order dated June 4, 2003, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including December 4, 2005 be, and it is hereby, granted to the City of Mount Olive within which to complete the approach work as set forth in the original Order dated June 4, 2003.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated June 4, 2003, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 20th day of October, 2004.

Edward C. Husley ₂

Chairman

JUDGE
SECTION CHIEF <i>mes</i>
ORDER SUPERVISOR <i>[Signature]</i>